

Remarks

The claims have been amended to delete the species of formula I wherein R_1 represents hydrogen. Independent Claims 1 and 8 have also been amended to specify certain affective disorders. Claim 16 directed to a pharmaceutical composition has been canceled. Claims 17-19 have been amended to make them method claims depending from Claim 1. Claim 21 directed to a commercial package has been canceled. New claims 22-25 have been added and fall within Group I. Support for the amendments can be found, at least in part, in the next to last paragraph on page 3 of the Specification, in the first paragraph on page 5 of the Specification, and in the paragraph bridging pages 6 and 7 of the Specification.

In the Office Action the Examiner states that restriction is required under 35 U.S.C. Sections 121 and 372 between the method claims of Group I and the composition claims of Group II. In response to the Examiner's restriction requirement, Applicants provisionally elect (without traverse) to prosecute the subject matter of Group I, identified by the Examiner as Claims 1-12 drawn to a method of treating certain affective disorders which comprises administering a therapeutically effective amount of a compound of formula I and have either canceled or amended claims in Group II in accordance with the election. Specifically, with respect to the claims of Group II, identified by the Examiner as Claims 16-19 and 21, Claims 16 and 21 have been canceled and Claims 17-19 have been amended to be method claims that depend from Claim 1. Since the remaining claims that were in Group II are no longer composition claims, are now method claims that depend from Claim 1, and are drawn to a method of treating certain affective disorders which comprises administering a therapeutically effective amount of a compound of formula I, Applicants respectfully submit that the remaining claims for Group II should be included in Group 1 and that it would not present a burden to search all claims in the application.

In the Office Action, the Examiner further states that if Group I is elected, the Applicants are further required to elect a single disclosed compound of formula 1 from Claims 11 and 12 and a single disclosed affective disorder or manic symptom from claims 4 and 6, and if Group II is elected, Applicants are further required to elect a single disclosed second active ingredient from Claims 17(b), 18 and 19. Applicants elect a compound of formula I wherein R_1 represents acetyl and elect the affective disorder of manic episodes of bipolar I disorder. As noted above, in view of the amendments to the claims of Group II to make them method claims, Applicants

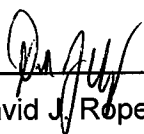
respectfully submit that those claims should be included in Group I, and should an election be necessary with respect to a single disclosed second active ingredient, the Applicants elect olanzapine.

The Examiner also stated that the Applicants' reply must identify the claims readable on the elected species. With respect to the species of formula 1 wherein R₁ represents acetyl, all of the pending claims (including newly added Claims 22-25) read on the elected species. With respect to the elected affective order species, namely manic episodes of bipolar I disorder, Claims 1-5, 7-12, 17-19, 22 and 25 read on the elected species. In the event an election is necessary with respect to a single disclosed second active ingredient, as noted above, the Applicants elect olanzapine, and Claims 1-12, 17, 18 and 22-25 read on the elected species.

Conclusion

Based upon the foregoing, Applicants respectfully submit that all of the pending claims should be included in Group I and should be examined by the Examiner.

Respectfully submitted,
Montgomery, McCracken, Walker & Rhoads, LLP



David J. Roper
Attorney for Applicants
Registration No. 32,753

Date: April 2, 2009

123 South Broad Street
Philadelphia, PA 19109-1099
Tel: (610) 889.2224